

IN THE UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/27/2023

<p>GERALD MITCHELL and SHARON MITCHELL as Administrators of Estate of JERRY MITCHELL,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>PARKVIEW OPERATING CO. LLC d/b/a WESTCHESTER CENTER FOR REHABILITATION & NURSING, WESTCHESTER CENTER FOR REHABILITATION & NURSING, ABC CORPORATION, ABC PARTNERSHIP,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No.: 7:22-cv-02357</p> <p>Judge: Hon. Nelson Stephen Roman</p> <p style="text-align: center;"><u>PROPOSED ORDER</u></p>
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UPON review of the Notice of Removal (ECF Doc. No. 2), together with all exhibits thereto, this Court's prior Orders dated April 6, 2022 (ECF Doc. No 6), and April 25, 2022 (ECF Doc. No 9), and the letter of Jeffrey T. Wolber dated April 24, 2023 (ECF Doc. No 17), and in light of the Second Circuit's decisions in *Solomon v. St. Joseph Hosp.*, 62 F.4th 54 (2d Cir. 2023), *Leroy v. Hume*, No. 21-cv-2158, 2023 WL 2928353 (2d Cir. Apr. 13, 2023), and *Rivera-Zayas v. Our Lady of Consolation Geriatric Care Ctr.*, No. 21-cv-2164, 2023 WL 2926286 (2d Cir. Apr. 13, 2023);

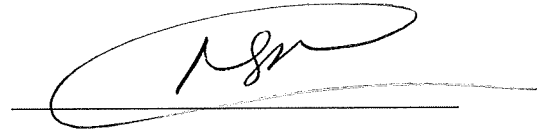
NOW, it is hereby ordered as follows:

1. This matter is remanded to the Supreme Court of the State of New York, Westchester County (index number 56825/2022), from which it was removed.
2. The Clerk is directed to return the file to the state court and close the case.

3. This remand shall be without costs to any party, and without prejudice to Defendant's ability to assert the defenses of immunity and/or preemption under the federal Public Readiness and Emergency Preparedness Act, 42 U.S.C. §§ 247d-6d, 247d-6e.

Dated: April 27, 2023
White Plains, NY

SO ORDERED.

A handwritten signature in black ink, appearing to read 'N. Roman', is written over a horizontal line.

Hon. Nelson Stephen Roman, U.S.D.J.